



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/599,610

05/01/2007

Ivo Westhovens

UDL-137

1585

36822 7590 05/11/2010

GORDON & JACOBSON, P.C.

60 LONG RIDGE ROAD

SUITE 407

STAMFORD, CT 06902

EXAMINER

PICKETT, JOHN G

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

05/11/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,610	<b>Applicant(s)</b> WESTHOVENS ET AL.	
	<b>Examiner</b> J. Gregory Pickett	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 and 34-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Official Action is in response to the amendment filed 20 January 2010. Claims 1-32 and 34-36 are pending in the application. Claim 33 has been canceled. Claims 34-36 are new to the application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

2. Claims 1-14, 17, 20, 24, 28-32, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam (GB 2,329,378 A; provided by applicant) in view of Lacasse et al (US 2003/0164318 A1).

1-9, 12, 35, and 36: Lam discloses a container for transportation and storage of items comprising an enclosure (Fig. 3) having an access arrangement providing access by means of an uppermost portion (open top) and a access permitting end portions 1/2. Lam further comprises movable side panels 3A/3B proximate access permitting end portions 1/2 and being movable to render open a corner of the container at the end portion (e.g. Fig. 1). Lam suggests retention of long, irregularly shaped cargoes (page 5, 3<sup>rd</sup> paragraph). Lam discloses the claimed invention with the exception of the securing arrangement.

Lacasse teaches the provision of a securing arrangement having upright restraints 22/24 that are configured to be advanced (Fig, 2) and retracted (Fig, 3) across the width of the container for supporting long, irregularly shaped objects in an upright

Art Unit: 3728

orientation (e.g. Fig. 2), and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the container of Lam with a securing arrangement as taught by Lacasse.

10: As readily apparent in Figure 1, Lam discloses frame openings on the lower portion F of the container for receiving tines of a lifting apparatus (page 4, 2<sup>nd</sup> paragraph).

11: Lacasse teaches formations on its upper and lower portions (see Fig. 5) for stacking purposes, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide such feature on the container of Lam.

13, 14: The claim does not invoke the provisions of 35 USC 112, 6<sup>th</sup> paragraph. Lacasse discloses support means 36/38.

17, 20, and 24: Lacasse discloses contact members 32/34, which are reorientatable with respect to the container (Figs. 2 & 3).

28: Lacasse discloses securing element 36/38 arranged to lie in engagement with the underside of the items (Fig. 2).

29-32: Lacasse discloses glass sheets 30. Provision of a second container would entail a mere duplication of parts and would have been obvious to one of ordinary skill in the art in order to provide more items with the ability to ship to different locations. It has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Art Unit: 3728

3. Claims 25-27 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam-Lacasse as applied to claim 1 above, and further in view of Pater et al (US 3,963,122).

Lam-Lacasse as applied to claim 1 above discloses the claimed invention with the exception of the slide elements.

Pater teaches the provision of slide elements 50 on opposite sides of an upright restraint near the end portions of the container (Fig. 1) and having friction reducing surfaces 62 for engagement with the sides on a retained article to prevent longitudinal motion during transit (e.g. Col. 5:5-9), and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the assembly of Lam-Lacasse with slide elements as taught by Pater.

4. Claims 1-10, 15-19, 21, 28-30, 32, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam (GB 2,329,378 A; provided by applicant) in view of Millhoan (US 4,278,171).

1-9, 35, and 36: Lam discloses a container for transportation and storage of items comprising an enclosure (Fig. 3) having an access arrangement providing access by means of an uppermost portion (open top) and a access permitting end portions 1/2. Lam further comprises movable side panels 3A/3B proximate access permitting end portions 1/2 and being movable to render open a corner of the container at the end portion (e.g. Fig. 1). Lam suggests retention of long, irregularly shaped cargoes (page

Art Unit: 3728

5, 3<sup>rd</sup> paragraph). Lam discloses the claimed invention with the exception of the securing arrangement.

Millhoan teaches the provision of a securing arrangement having upright restraints 26 that are configured to be advanced and retracted (Fig. 2) across a width of a container for supporting long, irregularly shaped objects in an upright orientation (e.g. Fig. 2), and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the container of Lam with a securing arrangement as taught by Millhoan.

10: As readily apparent in Figure 1, Lam discloses frame openings on the lower portion F of the container for receiving tines of a lifting apparatus (page 4, 2<sup>nd</sup> paragraph).

15, 16: Millhoan discloses lock arrangement 50/52 (Fig. 2).

17-19, 21: Millhoan discloses contact members 53/55 with adjustment arrangement 50/52. It is noted that Millhoan appears to present a typographical error in describing the cushions as items 52 and 54 (Col. 3:52-54), since items 52 and 54 are previously defined as a bolt and pin. The cushions are presumed to be items 53 and 55 as depicted in Figure 4.

28: Millhoan discloses securing element 34 arranged to lie in engagement with the underside of the items (Fig. 2).

29, 30, and 32: Millhoan discloses glass sheets 20. Provision of a second container would entail a mere duplication of parts and would have been obvious to one of ordinary skill in the art in order to provide more items with the ability to ship to different locations. It has been held that mere duplication of parts has no patentable

Art Unit: 3728

significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

5. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam-Millhoan as applied to claim 17 above, and further in view of Kitagawa et al (US 5,145,073).

Lam-Millhoan as applied to claim 17 above, discloses the claimed invention with the exception of the contact member on the container. However, Kitagawa teaches the provision of a contacting cushion 60 on the container to prevent the retained sheets from contacting the frame of the container, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the container of Lam with contacting members as taught by Kitagawa.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-32 and 34-36 have been fully considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728